



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

September 13, 2018

CERTIFIED MAIL

Ms. Zahra Hirji
BuzzFeed News
1630 Connecticut Avenue
Northwest 7th Floor
Washington, D.C. 20009

Dear Ms. Hirji:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2018-01455)

This letter is in response to the electronic Freedom of Information Act (FOIA) request you submitted to this office, requesting communication among Department of Energy (DOE) staff, including Doug Shoop and Anne White, relating and/or referring to the report titled "Plutonium Particle Examination by Scanning Electron Microscopy Analysis of Plutonium Finishing Plant Air Filters and Tech Smears."

In a telephone conversation with me on August 14, 2018, you clarified your request and stated you were seeking 1) emails between Doug Shoop and Anne White, Assistant Secretary for the Office of Environmental Management (EM), from December 18, 2017, to present regarding the report "Plutonium Particle Examination by Scanning Electron Microscopy Analysis of Plutonium Finishing Plant Air Filters and Tech Smears" and 2) emails between Doug Shoop and DOE Richland Operations Office (RL) staff from December 18, 2017, to present regarding the report "Plutonium Particle Examination by Scanning Electron Microscopy Analysis of Plutonium Finishing Plant Air Filters and Tech Smears."

A thorough search was conducted of the Exchange (email) Environment for Mr. Shoop and all RL staff using queries related to the subject matter of your request, and the enclosed email was located. Certain information within this email has been deleted pursuant to Exemptions 5 and 7(E) of the FOIA.

Exemption 5 protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. See 5 U.S.C. § 552(b)(5). Exemption 5 protects those documents normally privileged in the civil discovery process, such as pre-decisional, deliberative process material. The deliberative process protects advice, recommendations, and opinions that are pre-decisional and part of the decision-making process of the government. This privilege protects not merely the documents, but also the integrity of the deliberative process itself where the exposure of that process, or an element thereof, would result in harm.

The material being withheld as deliberative includes exchanges between government employees regarding decisions not yet made. It is reasonably foreseeable that release of such information could chill open and frank discussions or limit government personnel's range of options to consider, and thus detract from the quality of agency decisions.

Material determined to be exempt from mandatory disclosure may be released if disclosure is determined to be in the public interest. We have determined the public interest is best served by non-disclosure because disclosure of this information would inhibit pre-decisional and candid discussion of issues. For these reasons, the information is being withheld.

Exemption 7(E) provides that "records or information compiled for law enforcement purposes" may be withheld from disclosure, but only to the extent that the production of such documents "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law."

Sensitive information about networks and systems has been withheld pursuant to Exemption 7(E). The withheld information pursuant to Exemption 7(E) includes, but is not limited to, law enforcement and/or security purposes to prevent future illegal acts in the form of cybersecurity intrusions that could be used to obtain classified or sensitive information on networks without authorization.

This satisfies the standard set forth by the U.S. Attorney General by memorandum on March 19, 2009, that the agency is justified in not releasing material if it reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions, or disclosure is prohibited by law. This also satisfies DOE's regulation at Title 10 Code of Federal Regulations (CFR), Section 1004.1, to make records available which it is authorized to withhold under 5 USC 552 when it determines that such disclosure is in the public interest. Accordingly, we will not make discretionary disclosure of this information. All releasable information in the document has been segregated and is being provided to you.

The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8, for this determination. Should you choose to exercise this right, your appeal must be filed within 90 days after receipt of this letter. You may submit your appeal by email to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line (this is the method preferred by the Office of Hearings and Appeals). Alternatively, any such appeal may be made in writing to the following address: Director, Office of Hearings and Appeals (HG-1), U.S. Department of Energy, L'Enfant Plaza Building, 1000 Independence Avenue SW, Washington, D.C. 20585-1615. Your appeal must contain all the elements required by 10 CFR 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where DOE's records are situated, or (4) in the District of Columbia. Should you choose to appeal, please provide this office with a copy of your appeal.

As your request asks for emails between Mr. Shoop and Ms. White, your request has been transferred to the DOE Headquarters (HQ) FOIA Office to conduct a search of EM files. Upon completion of the search and review of any documents located, a response will be provided to you. If you have any questions about the processing of your request under HQ, you may contact Mr. Alexander Morris at Alexander.Morris@hq.doe.gov, or by mail at DOE HQ, 1000 Independence Avenue, SW, MA-46, Washington, D.C. 20585, or at (202) 586-3159.

You may contact the RL FOIA Public Liaison, Richard Buel, at (509) 376-3375, or by mail at P.O. Box 550, Richland, Washington, 99352 for any further assistance or to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

If you have any questions regarding your request, please contact me at our address provided on page 1 or at (509) 376-6288.

Sincerely,

-Original Signed By-

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosure

From: [Teynor, Thomas K](#)
To: [Shoop, Doug S](#); [Stickney, Brian J](#); [Olds, Theodore E \(Frik\)](#); [Sosson, Gregory \(HO\)](#); [Tyree, Geoffrey T](#); [Heeter, Mark A](#)
Subject: FW: Plutonium Particle Examination by Scanning Electron Microscopy Analysis of Plutonium Finishing Plant Air Filters and Tech Smears
Date: Monday, March 26, 2018 12:25:01 PM

All, Below is the link to the Pu particle size analysis report. I request (b)(5)

(b)(5)

“Plutonium Particle Examination by Scanning Electron Microscopy Analysis of Plutonium Finishing Plant Air Filters and Tech Smears” can be accessed via the following link:

[http://\(b\)\(7\)\(E\)/open/221356446](http://(b)(7)(E)/open/221356446)

R/ Tom Teynor
PFP Closure Project
Federal Project Director
Ph: 509-376-6363